

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF DELAWARE

- - -

HONEYWELL INTERNATIONAL, :
INC., and HONEYWELL :
INTELLECTUAL PROPERTIES, :
INC., :
: Plaintiffs, :
: :
vs. :CIVIL ACTION NO.
:04-1337-JJF

AUDIOVOX COMMUNICATIONS :
CORP., AUDIOVOX :
ELECTRONICS CORPORATION, :
NIKON CORPORATION; NIKON, :
INC., NOKIA CORPORATION; :
NOKIA, INC., SANYO :
ELECTRIC CO., LTD., and :
SANYO NORTH AMERICA :
CORPORATION, :
:

Defendants. :

HONEYWELL INTERNATIONAL, :
INC., and HONEYWELL :
INTELLECTUAL PROPERTIES, :
INC., :
: Plaintiffs, :
: :
vs. :CIVIL ACTION NO.
:04-1338-JJF

APPLE COMPUTER, INC.; :
ARGUS A/K/A HARTFORD :
COMPUTER GROUP, INC.; :
CASIO COMPUTER CO., LTD; :
CASIO INC.; CONCORD :
CAMERAS; DELL INC.; :
EASTMAN KODAK COMPANY; :
FUJI PHOTO FILM CO., LTD. :
;FUJI PHOTO FILM U.S.A., :
INC.; FUJITSU LIMITED; :

CORBETT REPORTING - A VERITEXT COMPANY
320 North Market Street Wilmington, DE 19899
(302) 571-0510

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1 FUJITSU COMPUTER :
2 PRODUCTS OF AMERICA, :
3 INC.; KYOCERA WIRELESS :
4 CORP.; MATSUSHITA :
5 ELECTRICAL INDUSTRIAL :
6 CO.; MATSUSHITA :
7 ELECTRICAL CORPORATION OF :
8 AMERICA; NAVMAN NZ :
9 LIMITED; NAVMAN U.S.A., :
10 INC; OLYMPUS CORPORATION; :
11 OLYMPUS AMERICA, INC.; :
12 PENTAX CORPORATION; :
13 PENTAX U.S.A., INC.; SONY :
14 CORPORATION; SONY :
15 CORPORATION OF AMERICA; :
16 SONY ERICCSON MOBILE :
17 COMMUNICATIONS AB; SONY :
18 ERICCSON MOBILE :
19 COMMUNICATIONS (USA) :
20 INC.; TOSHIBA :
21 CORPORATION; and TOSHIBA :
22 AMERICA, INC., :
23 :
24 Defendants. :
25 -----
14 OPTREX AMERICA, INC., :
15 Plaintiff, :
16 vs. :CIVIL ACTION NO.
17 :04-1536-JJF
18 HONEYWELL INTERNATIONAL, :
19 INC., and HONEYWELL :
20 INTELLECTUAL PROPERTIES, :
21 INC., :
22 :
23 Defendant. :
24 - - -
25 Teleconference in the above
captioned matter, taken pursuant to notice, before
Sara J. Heavens, Registered Professional Reporter
and Notary Public, in the law offices of Fox
Rothschild, LLP, 919 Market Street, Wilmington,
Delaware, on Thursday, September 24, 2009, beginning
at approximately 1:00 p.m., there being present:
- - -

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1 BEFORE: THE HONORABLE VINCENT J. POPPITI,
SPECIAL MASTER

2

3

4 APPEARANCES:

5

6 MORRIS NICHOLS ARSHT & TUNNELL, LLP

7 BY: THOMAS C. GRIMM, ESQUIRE

8 1201 North Market Street

9 Wilmington, Delaware 19801

10 tgrimm@mnat.com

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12 for Honeywell

13

14 DUANE MORRIS, LLP

15 BY: MATTHEW NIEDERMAN, ESQUIRE

16 1100 North Market Street, Suite 1200

17 Wilmington, Delaware 19801

18 MNiederman@duanemorris.com

19 Phone: (302) 657-4920

20 for Intralux

21

22

23

24

25

1 SPECIAL MASTER POPPITI: May I ask who's
2 on for Honeywell, please?

3 MR. GRIMM: Tom Grimm here, Your Honor.

4 SPECIAL MASTER POPPITI: Thank you, Tom.

5 And for Intralux, please?

6 MR. NIEDERMAN: Matt Niederman here, Your
7 Honor.

8 SPECIAL MASTER POPPITI: Thank you both.

9 I really appreciate your taking this call on
10 short notice. Let me tell you why I thought it
11 was important for me to convene what I expect
12 to be a brief conversation with the both of
13 you. As I start to turn my attention to do
14 some wrap-up matters involving Honeywell and
15 Intralux, certainly one of the matters that I
16 need to attend to is the application for fees.
17 And for my purposes and for purposes of the
18 transcript, I have marked that as DF Number
19 13A.

20 And as I started to do that, I realized
21 that to do a full Lodestar analysis, if you
22 will, of any fee application, you both know is
23 a tedious responsibility, regardless of how it
24 comes out in terms of the number of dollars
25 awarded.

1 And I thought it was fair for me to say at
2 the front end of my beginning to look at this
3 for purposes of bringing it to closure from my
4 desk, that as you both would anticipate, that
5 Honeywell is going to be awarded some fees, and
6 I am mindful of the fact that Honeywell has
7 suggested that they have incurred fees in the
8 amount of \$44,636. They had requested \$22,000.

9 And my responsibility, of course, is if I
10 reject the requested \$22,000 and, therefore,
11 launch into a Lodestar analysis, I'm going to
12 be spending money from this end that you all
13 may not want me to be spending. And I was
14 anticipating that at least by virtue of saying
15 that, I'm wondering whether you, in conjunction
16 with conversations that you may have or that I
17 expect you would have with your lead counsel,
18 can't you get back to the table and come up
19 with some agreement short of \$22,000 that
20 Honeywell is requesting?

21 My concern is that I am going to be
22 spending money, and if I do a Lodestar
23 analysis, I can kind of give you an indication
24 back of the envelope, but I'm not sure that you
25 want that at this juncture. But I think that

1 my suggestion that there should be some
2 conversation to get under the \$22,000 may be
3 enough to say why spend my money when it's
4 better spent within a number we can confer as
5 between the parties.

6 MR. GRIMM: Well, as far as Honeywell is
7 concerned, Your Honor, we appreciate the
8 opportunity to do that. We appreciate you
9 reaching out and giving the parties an
10 opportunity to do that. I'm sure Honeywell
11 would be happy to do that. I think you saw
12 from our papers that we did continually reduce
13 the amount that we were asking for.

14 SPECIAL MASTER POPPITI: You did.

15 MR. GRIMM: To try to get a resolution
16 without bringing it in front of Your Honor.

17 SPECIAL MASTER POPPITI: Right.

18 MR. GRIMM: So I'm sure Honeywell would be
19 happy to have another conversation with Matt's
20 folks.

21 MR. NIEDERMAN: And this is Matt. I'm
22 sure we'd be happy to have a conversation as
23 well to see if we can get that resolved without
24 having to trouble you with engaging in a full
25 Lodestar analysis.

1 SPECIAL MASTER POPPITI: Good.

2 MR. NIEDERMAN: I'll make every effort I
3 can to facilitate that.

4 SPECIAL MASTER POPPITI: Good. The only
5 thing that I would add to that is if you
6 could -- and I realize everyone is really
7 certainly focused on other -- certainly,
8 Honeywell is focused on other important matters
9 leading to this trial -- if you could give me
10 some idea by close of business tomorrow, not
11 where you are, but when you can give me some
12 definitive answer. So if your conversations
13 don't result in a resolution -- and I really
14 anticipate, trust and hope that they would --
15 then I can turn my attention to what would have
16 to be a full Lodestar analysis.

17 MR. GRIMM: That sounds like a plan.

18 SPECIAL MASTER POPPITI: Okay.

19 MR. NIEDERMAN: Great. Thank you, Your
20 Honor.

21 SPECIAL MASTER POPPITI: Thank you both
22 for taking the call.

23 - - -

24 (Whereupon the teleconference
25 concluded at 1:06 p.m.)

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C E R T I F I C A T E

I, SARA J. HEAVENS, being a Registered Professional Reporter, a Notary Public, do hereby certify that the foregoing teleconference was taken stenographically by me and that this transcript is a true and correct transcript of the same, fully transcribed under my direction, to the best of my ability and skill.

I further certify that I am not a relative, employee or attorney of any of the parties in this action; that I am not a relative or employee of any attorney interested in the event of this action.

SARA J. HEAVENS, RPR, CCR
CCR License No. 30X100211400
NOTARY PUBLIC
Commission expires 12/4/11

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